

RQ/BRASFIELD GORRIE JV

Plaintiff,

v.

MASTERWEAVE COMMERCIAL, LLC;

RLI INSURANCE COMPANY, INC.;

and

MATT FARGO

Defendants.

Defendant RLI Insurance Company (“RLI”), with the consent of Defendants Masterweave Commercial LLC (“Masterweave”) and Matt Fargo (“Fargo”) (collectively “Defendants”), by counsel and in accordance with Sections 1441 and 1446 of Title 28 of the United States Code, respectfully file this Notice of Removal of the above-captioned matter to this Court from the General Court of Justice, Superior Court Division, in the County of Mecklenburg, North Carolina. Subject matter jurisdiction lies in this Court for the reasons set forth below:

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matter is pending therein under case number 15-CVS-8934. RLI received a copy of the Complaint via U.S. Mail on May 14, 2015. RQ/BG subsequently served Defendant RLI Insurance Company with a copy of the Summons and Complaint on May 22, 2015. Upon information and belief, service has not yet been made on Masterweave and Fargo. A full copy of RQ/BG's service of Summons and Complaint and its Exhibits on RLI is attached hereto as **Exhibit A**. No other pleadings have been filed in the above-captioned matter and no other proceedings have taken place in the General Court of Justice, Superior Court Division for the County of Mecklenburg, North Carolina.

2. The above-captioned action is a civil action in which RQ/BG seeks damages against the Defendants "in an amount to be established at trial but in any event in excess of \$1,900,000," arising out of the alleged breach of a Subcontract between the parties. (Compl. Ex. A.)

3. The Complaint alleges that RQ/BG is a joint venture with its principal place of business located in Carlsbad, California. RQ/BG is a joint venture of RQ Construction, LLC, a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located in Carlsbad, California, and Brasfield & Gorrie, LLC, a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located in Birmingham, Alabama.

4. The Complaint alleges that Masterweave is a limited liability company organized and existing under the laws of Tennessee, with its principal place of business located in Chattanooga, Tennessee.

5. The Complaint alleges that RLI is corporation a corporation organized and existing under the laws of Illinois with its principal place of business in Peoria, Illinois.

6. The Complaint alleges that Matt Fargo is a citizen of Chattanooga, Tennessee.
7. This action may be removed to this Court pursuant to Section 1441 of Title 28 of the United States Code because it falls within the original jurisdiction of this Court under Section 1332 of Title 28 of the United States Code, due to the complete diversity of citizenship between the Plaintiff and the Defendants. Furthermore the Defendants are not citizens of the State of North Carolina in which this action was brought, and the matter and amount in controversy in this action exceeds \$75,000, exclusive of interest and costs.
8. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed with this Court within thirty (30) days of the Defendants' receipt of RQ/BG's Complaint.
9. Pursuant to 28 U.S.C. § 1446(b), all defendants in this matter have consented to this Notice of Removal. "[A] notice of removal signed and filed by an attorney for one defendant representing unambiguously that the other defendants consent to the removal satisfies the requirement of unanimous consent for purposes of removal." *Mayo v. Bd. of Educ. of Prince George's Cnty.*, 713 F.3d 735, 742 (4th Cir. 2013) *cert. denied*, 134 S. Ct. 901 (2014); *Moehring v. Mortgage Elec. Registration Sys., Inc.*, No. 3:13-CV-00567-MOC, 2014 WL 1091071, at *3 (W.D.N.C. Mar. 17, 2014) *appeal dismissed sub nom. Moehring v. Bank of New York Mellon*, 582 F. App'x 181 (4th Cir. 2014). In addition, RLI presents a declaration of counsel for Defendants Masterweave and Matt Fargo consenting to this Notice of Removal, which is attached hereto as **Exhibit B**.
10. Pursuant to 28 U.S.C. § 1446(d), Plaintiff and the Clerk of the General Court of Justice, Superior Court Division for the County of Mecklenburg, North Carolina and RQ/BG will be promptly notified in writing of the filing of this Notice of Removal.

WHEREFORE, RLI, with the consent of its co-defendants Masterweave and Fargo, hereby removes the Complaint filed by RQ/BG to the United States Court for the Western District of North Carolina.

This 9th day of June, 2015.

Respectfully Submitted,

/s/ Richard A. Vinroot
Richard A. Vinroot
N.C. Bar No. 4493

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF REMOVAL** has been served upon counsel of record in this action by depositing same in the United States mail, postage prepaid, in envelopes addressed as follows:

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Attorneys for Defendants Masterweave Commercial, LLC and Matt Fargo

This 9th day of June, 2015.

/s/ Richard A. Vinroot
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